

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CAMBRIDGE RETIREMENT SYSTEM, on
Behalf of Itself and all Others Similarly
Situated,

Plaintiff,

v.

INVACARE CORPORATION, *et. al.*,

Defendants.

Case No. 1:13-cv-1165

CLASS ACTION

Judge Christopher A. Boyko

ORAL ARGUMENT REQUESTED

**JOINT MOTION AND [PROPOSED] ORDER TO ADJOURN THE CASE
MANAGEMENT CONFERENCE AND TO ESTABLISH A SCHEDULE FOR
PROPOSED LEAD PLAINTIFF TO FILE AN AMENDED COMPLAINT AND
FOR DEFENDANTS' RESPONSE TO THE AMENDED COMPLAINT**

Proposed Lead Plaintiff, the Government of Guam Retirement Fund (“Guam” and, collectively with Defendants, the “Parties”), together with defendants Invacare Corporation, Gerald B. Blouch, A. Malachi Mixon, III, and Robert K. Gudbranson (collectively, “Defendants”), respectfully submit this joint motion to adjourn the case management conference currently scheduled for September 6, 2013, at 11:00 a.m., and to establish a schedule for Proposed Lead Plaintiff to file an amended complaint and for Defendants’ response to the amended complaint.

On May 24, 2013, a class action Complaint For Violation Of The Federal Securities Laws was filed by plaintiff Cambridge Retirement System (“Cambridge”) against Defendants in this Court (the “Complaint”) [ECF No. 1]. On July 23, 2013, Guam filed its motion for appointment as lead plaintiff and approval of its selection of lead counsel pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(B) [ECF No. 8], which motion is effectively unopposed. The Parties anticipate that the Court will issue an Order appointing Guam as Lead Plaintiff and approving its selection of counsel and appointing Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel (the “Lead Plaintiff Order”).

On July 30, 2013, the Court entered a Notice of Case Management Conference [ECF No. 10] setting a case management conference for September 6, 2013, at 11:00 a.m., and requiring the Parties, among other things, to meet prior to the scheduled conference “to discuss the case and prepare a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f).” This action, however, is governed by the PSLRA, which provides, among other things, that discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, which Defendants have not yet filed.

On August 26, 2013, Defendants were each properly served with a copy of the Complaint and Defendants have not served any response to the Complaint. If appointed Lead Plaintiff, Guam intends to amend the Complaint pursuant to Rule 15(a). In accordance with Federal Rule of Civil Procedure 1, the Parties, through their attorneys, met and conferred and reached an agreement as to a schedule for the filing of an amended complaint and for Defendants' response to the amended complaint. Subject to the Court's approval, the Parties jointly and respectfully request that the Court enter the accompanying [Proposed] Order, as follows:

1. This action shall be captioned *In re Invacare Corp. Securities Litigation*, Case No. 1:13-cv-1165-CAB, and any related action filed hereafter shall be consolidated with this action pursuant to Rule 42(a) of the Federal Rules of Civil Procedure;
2. The Case Management Conference currently scheduled for September 6, 2013, at 11:00 a.m., shall be adjourned;
3. Lead Plaintiff's amended complaint shall be filed no later than seventy-five (75) days after entry of the Lead Plaintiff Order;
4. Defendants shall answer, move or otherwise respond to Lead Plaintiff's amended complaint no later than forty-five (45) days after filing of the amended complaint;
5. Lead Plaintiff shall file its opposition to any motion to dismiss the amended complaint no later than forty-five (45) days after such motion to dismiss is filed;
6. Defendants shall file any reply brief to Lead Plaintiff's opposition no later than twenty-one (21) days after such opposition is filed; and

7. The Court shall hear oral argument on any motion to dismiss the amended complaint within thirty (30) days of the time briefing on the motion is concluded, or at a date and time at the Court's next earliest convenience.

Dated: August 27, 2013

Respectfully submitted,

/s/ Scott D. Simpkins

Scott D. Simpkins (0066775)

**CLIMACO, WILCOX, PECA,
TARANTINO & GAROFOLI CO., LPA**
John R. Climaco (0011456)
Scott D. Simpkins (0066775)
55 Public Square, Suite 1950
Cleveland, Ohio 44113
Telephone: (216) 621-8484
Facsimile: (216) 771-1632

*Local Counsel for Proposed Lead Plaintiff
Government of Guam Retirement Fund*

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Blair A. Nicholas (admitted *Pro Hac Vice*)
Benjamin Galdston (pending *Pro Hac Vice*)
David R. Kaplan (pending *Pro Hac Vice*)
12481 High Bluff Drive, Suite 300
San Diego, California 92130
Telephone: (858) 793-0070
Facsimile: (858) 793-0323
-and-
Gerald H. Silk (admitted *Pro Hac Vice*)
Avi Josefson (admitted *Pro Hac Vice*)
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 554 1400
Facsimile: (212) 554 1444

*Counsel for Proposed Lead Plaintiff
Government of Guam Retirement Fund and
Proposed Lead Counsel for the Class*

CALFEE, HALTER & GRISWOLD LLP

Mitchell G. Blair

Fritz E. Berckmueller

Eric S. Zell

The Calfee Building

1405 East Sixth Street

Cleveland, OH 44114

Telephone: (216) 622-8671

Facsimile: (216) 241-0816

*Counsel for Defendants Invacare Corporation,
Gerald B. Blouch, A. Malachi Mixon, III, and
Robert K. Gudbranson*

CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically this 27th day of August, 2013. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Scott D. Simpkins

Scott D. Simpkins

[PROPOSED] ORDER

Having considered the Parties' joint motion, the Court hereby orders that:

1. This action shall be captioned *In re Invacare Corp. Securities Litigation*, Case No. 1:13-cv-1165-CAB, and any related action filed hereafter shall be consolidated with this action pursuant to Rule 42(a) of the Federal Rules of Civil Procedure;
2. Lead Plaintiff's amended complaint shall be filed no later than seventy-five (75) days after entry of the Court's Order appointing Lead Plaintiff and approving its selection of Lead Counsel for the Class (the "Lead Plaintiff Order");
3. Defendants shall answer, move or otherwise respond to Lead Plaintiff's amended complaint no later than forty-five (45) days after filing of the amended complaint;
4. Lead Plaintiff shall file its opposition to any motion to dismiss the amended complaint no later than forty-five (45) days after such motion to dismiss is filed; and
5. Defendants shall file any reply brief to Lead Plaintiff's opposition no later than twenty-one (21) days after such opposition is filed.
6. The Court shall hear oral argument on any motion to dismiss the amended complaint within thirty (30) days of the time briefing on the motion is concluded, or at a date and time at the Court's next earliest convenience.

IT IS SO ORDERED

Dated: _____

Honorable Christopher A. Boyko
United States District Judge